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March 4, 2004

RECEIVED

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

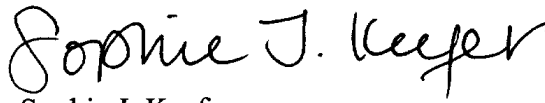
Re: Ex Parte Presentation in CC Docket No. 96-115

Dear Ms. Dortch:

On March 4, 2004, representatives of the Association of Directory Publishers ("ADP") met with Jeffrey Carlisle, Robert Tanner, Ann Stevens, and William Kehoe of the Wireline Competition Bureau to discuss the pending petitions for reconsideration in the above captioned proceeding. ADP was represented by Lawrence Angove, President and CEO, and the undersigned. The attached handout was provided by ADP at the meeting.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, an original and one copy of this letter are being filed for inclusion in the public record of the above-referenced proceeding. Should you have any questions, please do not hesitate to contact me at (202) 303-1142.

Sincerely,

  
Sophie J. Keefer

Enclosure

cc: Jeffrey Carlisle  
Robert Tanner  
Ann H. Stephens  
William A. Kehoe III

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**THE ASSOCIATION OF DIRECTORY PUBLISHERS**  
**Ex Parte Presentation in CC Docket No. 96-115**  
**March 4, 2004**

- I. The Commission should encourage incumbent local exchange carriers (ILECs) to facilitate the provision of competitive local exchange carriers' (CLEC) subscriber list information (SLI) to *all* directory publishers on a non-discriminatory basis:**
- The obligation under Section 222(e) to provide a telephone subscriber's SLI to directory publishers is the obligation of the carrier that provides the subscriber with telephone service (*i.e.*, the ILEC or CLEC).
  - CLECs do not generally maintain SLI databases, instead relying on the ILEC to provide their subscribers' listings to directory publishers. Mechanisms to ensure that CLEC SLI is provided along with the ILEC's own listings include interconnection agreement provisions, consent forms, and letters of authorization.
  - Because of its position as an affiliate of the monopoly provider of local exchange service in its service area, an ILEC's publishing affiliate knows which CLECs have listings in a given area and obtains these listings with little to no effort.
  - If advised which CLECs have listings in the ILEC's database but have not authorized their passage to independent publishers, independent publishers can contact the CLECs to obtain their authorization for release by the ILEC or can obtain the listings directly from the CLEC. ADP has negotiated with several ILECs to ensure that such information is provided to independent publishers. *See* BellSouth Letter (March 27, 2000).
  - If the ILEC does not work with independent publishers to make this information available, the publisher must engage in costly and time consuming activities to identify (from generally incomplete and outdated public records) and contact each CLEC. The ILEC's publishing affiliate is not required to engage in this process.
  - There is ample authority for the proposition that the Commission has authority to remedy discrimination resulting from ILECs' access to complete information concerning the telephone numbers of their own as well as other carriers' customers operating in their regions. *See* Petition for Reconsideration of the Association of Directory Publishers, at 6-10 (filed Nov. 4, 1999).
  - On reconsideration of the *SLI Third Report and Order*, the Commission should confirm that ILECs may not discriminate between their own publishing affiliates and independent publishers in the provision of listings of CLECs gathered pursuant to interconnection agreements with the CLECs.

**II. The Commission should reject NTCA's petition requesting adoption of a market-based benchmark rate for rural telcos:**

- The \$0.42 benchmark proposed by NTCA is based on a survey in which NTCA polled its members concerning the *current* rates charged by its members for SLI.
- The Commission has already rejected the notion that carriers are permitted to charge "whatever-the-market-will-bear" for SLI and instead required that SLI rates be based on cost (*i.e.*, the presumptively reasonable benchmarks of four and six cents per listing for basefile and updated SLI, respectively).
- NTCA has not provided evidence that its members' costs would not be covered by the presumptive benchmarks or justification for a change to the Commission's rules to adopt a new benchmark. In fact, the presumptive benchmarks represent a substantial mark-up from carriers' actual costs.

**III. The Commission should reduce to seven days the period within which LECs must inform independent publishers that they cannot comply with a request for SLI:**

- Several commenters opposed ADP's request that the FCC reduce to seven days the period within which LECs must inform publishers that they cannot comply with a request for SLI. ADP believes that these commenters have misunderstood ADP's Petition.
- ADP is concerned that the FCC's rules, as written, will result in unintended consequences. The *Third Report and Order* states that listings must be ordered thirty days in advance. The Order also permits carriers to wait thirty days to inform a publisher that the format requested is not available and to offer alternative formats. Thus, a publisher may receive notice that the LEC can not meet its request for listings on the thirtieth day following its initial request, *i.e.*, the day the publisher expected to receive the listings.

**IV. The Commission should reject Petitioners' suggestions that carriers be permitted to immediately cease providing SLI to a publishers if the carrier believes that the publisher is misusing the SLI:**

- Adoption of this draconian approach to suspected misuse of SLI by carriers -- termination of all rights to obtain SLI -- would have serious anticompetitive effects. Carriers could utilize this approach to put a competing publisher out of business.
- This approach is unnecessary, as commenters provide no evidence in the record of publisher abuse of SLI.

**V. Other issues on reconsideration:**

- The Commission should continue to require every carrier to make available to publishers, upon request, contracts governing the provision of SLI to itself, an affiliate, or an entity that publishes directories on the carrier's behalf.
- The Commission should recognize an affirmative obligation for carriers to provide delivery information for unlisted or unpublished subscribers if the carrier provides that information to its own directory publishing affiliates.
- The Commission should modify the complaint procedures to routinely provide interim relief for publishers and to ensure that complaints concerning SLI rates are treated expeditiously.

March 27, 2000

Dear Directory Publisher:

In response to the requests of our customers, BellSouth is implementing the following process and will be offering the following optional report regarding subscriber listing information (SLI) of competitive local exchange carriers (CLECs) with which BellSouth has entered into interconnection agreements:

**1. Standard Interconnection Agreement**

- All new or renewed interconnection agreements into which BellSouth enters with any CLEC on or after the date of this letter will contain language authorizing BellSouth to release CLEC SLI to all independent directory publishers eligible to receive listings, unless the CLEC specifically requests otherwise.
- CLECs with existing BellSouth interconnection agreements that wish to authorize BellSouth to release their SLI to independent directory publishers should affirmatively present BellSouth, via their account executive, an amendment to their interconnection agreement.
- BellSouth will require a thirty (30) day timeframe from the date the CLEC's proposed amendment is received to process the amendment and to make the system changes necessary to enable BellSouth to release the applicable CLEC's SLI.

**2. CLEC Report**

- Effective 1 April 2000, the "CLEC Report" will be newly available upon request by a BellSouth DPDS customer. It will contain a list of CLECs by company code whose SLI for a specific directory coverage area is contained in BellSouth's database but will not be provided to the independent directory publisher because the CLECs have not amended their interconnection agreements with BellSouth to provide for release of their SLI to independent directory publishers, or because the CLECs have instructed BellSouth not to release their SLI to independent directory publishers.
- After receipt of a valid initial request for SLI from an independent directory publisher, BellSouth will provide up to six "CLEC Reports", not more frequently than every sixty (60) days and prior to the independent directory publishers receipt of the requested SLI.
- A \$10.00 fee per request has been established to allow BellSouth to recover production costs.

If you have any questions, we may be reached Monday through Friday (8:30-5:30). BellSouth appreciates your business and looks forward to serving you in the future.

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